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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1255 OF 2005

The Varachha Co-op. Bank Ltd. ... Petitioner

Vs.

The New India Assurance Company Limited & Ors. ... Respondents

Mr. Gaurang Kinkhabwala with Mr. Hemang Jariwala i/b Auroma Law for the petitioner.

Mr. Rahul Narichania i/b Motiwala & Co. for respondent 1.

CORAM: SMT. RANJANA DESAI &
ABHAY S. OKA, JJ.

DATED: 25TH NOVEMBER 2005.

P.C.:-

1. The petitioner is a co-operative bank registered under the Gujarat Co-operative Societies Act, 1961. Respondent 1 is the New India Assurance Company Limited, carrying on business of insurance. The case of the petitioner is that the petitioner obtained "Group Janata Personal Accident Policy" introduced by respondent 1 and paid in advance premium to respondent 2 herein being the authorised agent of respondent 1. Respondent 1 had, out of 30 claims filed by the petitioner, cleared 13 claims upto 31/7/2001 but failed to clear the balance claims filed between 30/8/2001 to 11/2/2004. The petitioner was, therefore, forced to approach respondent 3 i.e. the Insurance Ombudsman (Maharashtra & Goa), Mumbai. The petitioner lodged his complaint with respondent 3. It is his grievance that respondent 3 without hearing the petitioner dismissed his complaint.

2. We have heard the learned counsel for the parties. It does appear that respondent 3 has not given any hearing to the petitioner. Only on that ground, in our opinion, the impugned order passed by respondent 3 needs to be set aside and respondent 3 needs to be given a direction that he should consider the matter afresh after hearing the petitioner and other concerned parties.

Hence, the following order :

O R D E R

3. The impugned order dated 7/12/2004 passed by respondent 3 viz. the Insurance Ombudsman (Maharashtra & Goa), Mumbai, is set aside. Respondent 3 is directed to hear and dispose of the petitioner's complaint after giving proper hearing to the petitioner and other concerned parties. We make it clear that we have not expressed any opinion on the merits of the matter. All contentions of all the parties are kept open.

4. Petition is disposed of in the aforestated terms.

(SMT. RANJANA DESAI, J.)

(ABHAY S. OKA, J.)